

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FLEXNET, INC. and DEL WONG,

No. C 03-03564 JSW

Plaintiffs,

v.

NAMESDOMAINS, et al.,

Defendants.

**ORDER DENYING TEMPORARY
RESTRAINING ORDER ; ORDER
GRANTING MOTION FOR LEAVE TO
SERVE PROCESS ON NAMESDOMAINS
VIA EMAIL; ORDER TO SHOW CAUSE
RE PRELIMINARY INJUNCTION
MOTION**

On July 31, 2003, plaintiffs Flexnet, Inc. and Del Wong ("Flexnet") moved ex parte for a temporary restraining order ("TRO") and a preliminary injunction seeking to restrain Defendants from transferring or otherwise modifying the domain name registration of "Hardcore.com" Universal Resource Locator during the pendency of this action. Having reviewed Flexnet's papers, and good cause appearing, it is HEREBY ORDERED that the application for a TRO is DENIED. Flexnet has failed to make an adequate showing supported by admissible evidence of immediate harm necessitating the issuance of a TRO and has further failed to demonstrate the need to preserve the status quo pending a hearing on its application for a preliminary injunction.

1 Flexnet also moved pursuant to Federal Rule of Civil Procedure 4(f)(3) for leave to serve
2 process via email on defendant NamesDomains, aka Xeroxac@Yahoo.com, aka
3 Ennovations2000@Yahoo.com at said email addresses because of their location in Korea. Because
4 the parties have been in communication via email and because Flexnet has demonstrated that the cost
5 and time involved in serving defendants abroad would be prohibitive and ineffective, the Court will
6 authorize the alternative method of service by email. *See Rio Properties, Inc. v. Rio Int'l Interlink*,
7 284 F.3d 1007, 1014-18 (9th Cir. 2002). However, Flexnet shall effect proper service under
8 Federal Rule of Civil Procedure 4(e) to the remaining defendants, Go Daddy Software, Inc., RK
9 Netmedia, Inc. and Cyber Trend, Inc.

10 Lastly, the Court hereby issues an ORDER TO SHOW CAUSE why the preliminary
11 injunction should not issue. Flexnet is directed to serve the Complaint, the Summons, the application
12 for a TRO and for a preliminary injunction, and all other supporting documents filed with the Court on
13 July 31, 2003, and this Order on all defendant or defendants' counsel no later than August 4, 2003.
14 Flexnet shall file a proof of service by August 8, 2003. Defendants' opposition and supporting papers
15 shall be filed with the Court and served on Flexnet's counsel no later than August 29, 2003; Flexnet
16 may file and serve a reply brief no later than September 12, 2003. The Court will set a hearing date
17 and time in a separate order if it is determined that oral argument would be of assistance.

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19 **IT IS SO ORDERED.**

20 Dated: July 31, 2003

21 /s/ Jeffrey S. White
22 JEFFREY S. WHITE
23 UNITED STATES DISTRICT JUDGE
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